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UNITED STATES MAGISTRATE JUDGE SAMUEL ALBA

#### IN THE UNITED STATES DISTRICT COURT

DISTRICT OF UTAH, CENTRAL DIVISION

SEALED

UNITED STATES OF AMERICA.

Plaintiff.

**FELONY COMPLAINT** 

Case No. 2:10 . MJ . 339 SA

VS.

MARK ERIC BAYNE,

VIO. 18 U.S.C. § 875(c), THREATS IN INTERSTATE COMMERCE

Defendants.

Before Samuel Alba, United States Magistrate Judge for the District of Utah, appeared the undersigned, who on oath deposes and says:

## COUNT I

On or about November 26, 2010, in the Central Division of the District of Utah,

MARK ERIC BAYNE,

did knowingly transmit in interstate and foreign commerce via the world wide web, a communication containing a threat to injure the person of another. On his Facebook web page the defendant posted a message, in part, that states: "These are the worst form of humanity (Utahns [sic] and Subversive Mormons and their whores) right along with them [sic] monkeys in Georgia. In retaliation: Take at least thirty of their women and children (at the cost of each man) EVER DAY. Effective Primary Targets:

All in violation of Section 875(c) of Title 18 of the United States Code.

### AFFIDAVIT IN SUPPORT OF COMPLAINT

I, Eric M. Miller, ("your affiant"), a Special Agent with the Department of Homeland Security, Federal Protective Service (DHS/FPS), Salt Lake City, being duly sworn, deposes and state as follows:

1. I have been employed as a Special Agent with DHS/FPS for one and a half years. Prior to service with FPS, I was a Special Agent with the U.S. Department of State, Diplomatic Security Service for ten years and a Police Officer with the U.S. Capitol Police for three and a half years. During my fifteen years as a federal law enforcement officer, I have investigated violations of federal law in various areas including threats to injure or kill the person of another transmitted in interstate or foreign commerce. I have gained experience through training in seminars, classes, and everyday work related to conducting these types of investigations.

2. As a Special Agent, your affiant is authorized to investigate violations of the laws of the United States and is a law enforcement officer with the authority to execute warrants issued under the authority of the United States.

### FACTS AND CIRCUMSTANCES

- 3. The statements in this affidavit are based in part on information provided by State of Utah Department of Public Safety law enforcement officers and on my experience and background as a Special Agent of DHS/FPS. I have set forth the facts that I believe are necessary to establish probable cause to believe that MARK ERIC BAYNE has committed violations of Title 18 United States Code, Section 875(c).
- 4. Your affiant knows that MARK ERIC BAYNE accesses Facebook from computers located at the Salt Lake Community College. As recently as December 15, 2010, your affiant was informed by a State of Utah Department of Public Safety (DPS) law enforcement officer that he personally observed MARK ERIC BAYNE at the Salt Lake Community College accessing his Facebook page.
- 5. On MARK ERIC BAYNE's Facebook page, under user information, the email address listed is markericbayne@gmail.com. Your affiant knows that MARK ERIC BAYNE has utilized markericbayne@gmail.com to send emails to federal, state and private institutions, including educational institutions. In those emails, he has expressed deep-seeded anger, and used vulgar epithets to demean the recipients and the particular institutions they represent. In the emails, he has also expressed threatening language stating an intention to commit violent acts upon individuals and institutions as retaliation against those that he believes have wronged him.

- 6. Against this backdrop, BAYNE has also made multiple postings on his Facebook page that include threats. One such threat was posted on November 26, 2010, and states: "These are the worst form of humanity (Utahns [sic] and Subversive Mormons and their whores) right along with them [sic] monkeys in Georgia. In retaliation: Take at least thirty of their women and children (at the cost of each man) EVER DAY [sic]. Effective Primary Targets:
- "Within the context of his email messages and Facebook postings, this statement would cause apprehension and fear in a reasonable person. The Facebook page is public and accessible to any person without necessity of a password.
- 7. On December 16, 2010, the defendant displayed on his Facebook page a link to video footage of the man who brandished and discharged a firearm in a public school board meeting in Florida this past week. The video link was displayed on BAYNE's Facebook page without additional comment.
- 8. On MARK ERIC BAYNE's Facebook page, under user information, the physical address listed is 1905 W 4700 S #215, Salt Lake City, UT 84118. Your affiant knows that MARK ERIC BAYNE uses that address (located within a UPS Store) as a mailing address and has observed MARK ERIC BAYNE at that location.
- 9. The internet, the worldwide web, and email messaging engage facilities of interstate commerce, and messages transmitted therein affect interstate and foreign commerce.

### CONCLUSION

Based upon the foregoing, your affiant believes there is probable cause to believe that MARK ERIC BAYNE, transmitted in interstate or foreign commerce any communication containing any threat to injure the person of another, all in violation of Title 18 United States Code, Section 875(c).

Eric M. Miller Special Agent

Department of Homeland Security Federal Protective Service

Sworn and subscribed before me this /7 day of December, 2010

Samuel Alba

UNITED STATES MAGISTRATE JUDGE

Approved:

John-Huber

Assistant United States Attorney